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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

This Document Relates to:

ALL ACTIONS

Case No. 3:23-md-03084-CRB

**DEFENDANT UBER TECHNOLOGIES,
INC. AND RAISER, LLC'S BRIEF IN
SUPPORT OF UBER'S PRIVILEGE
CLAIMS CHALLENGED BY
PLAINTIFFS FOR SEVEN CUSTODIAL
FILES – PURSUANT TO SPECIAL
MASTER ORDER NO. 2 (DKT. 2357) AND
ORDER NO. 3 (DKT. 2472)**

DEFENDANTS' BRIEF IN SUPPORT OF UBER'S PRIVILEGE CLAIMS CHALLENGED BY PLAINTIFFS FOR SEVEN CUSTODIAL FILES – PURSUANT TO SPECIAL MASTER ORDER NO. 2 (DKT. 2357) AND ORDER NO. 3 (DKT. 2472)

Pursuant to Special Master Order No. 2 (Dkt. 2357) ¶ III(6) and Order No. 3 (Dkt. 2472) ¶ I (4), Defendants submit this brief and attached declaration in support of their position on the remaining privilege challenges for custodians Cassie Hawk, Rachel Holt, Andrew Hasbun, Catherine Gibbons, Jordan Burke, Carley Lake, and Valerie Shuping.¹ Defendants incorporate by reference the legal standard and arguments set forth in its prior briefing (Dkts. 2433, 2461, 2528, 2544, and 2580). Among the numerous challenges that Plaintiffs have asserted to Uber's assertion of privilege or work product protection, Plaintiffs initially challenged more than 5,000 documents within the custodial files of Hawk, Holt, Hasbun, Gibbons, Burke, and Lake. Plaintiffs initially challenged approximately 632 documents within the custodial file of Shuping. Through many conferrals, the parties have narrowed their disputes to 236 challenges for Hawk, Holt, Hasbun, Gibbons, Burke, and Lake. The parties narrowed their disputes to 24 challenges for Shuping. These challenges are now submitted for the Special Master's review.

In addition to the factual material already made available for the Special Master's consideration,² Defendants now provide a declaration from Jennifer Handley, Senior Director, Safety Legal, Global (Ex. A). Ms. Handley's declaration provides factual support that helps to clarify Uber's privilege assertion as to JCCP_MDL_PRIVLOG005830.³ As explained, this document is an email thread beginning with an email from Mike Haas, dated May 14, 2021, in which he shares information at the direction of counsel to facilitate the provision of legal advice. *See* Ex. A. This information was being compiled at the direction of the in-house team because the in-house team anticipated the

¹ Under Master Order No. 2, ¶ II(6), and as Defendants indicated during conferrals, the deadline to submit briefs or affidavits in support of the parties' positions on the challenges as to Gibbons, Burke, and Lake is March 25. For efficiency and convenience of the Special Master, Defendants provide this submission as to the seven custodians discussed herein, but reserve the right to submit any additional support as to Gibbons, Burke, and Lake on the deadline provided by Master Order No. 2.

² As requested by the Special Master, Uber has provided (1) a glossary of terms commonly used in disputed documents, (2) a list of names and titles of relevant Uber inside and outside counsel, and (3) a digest of third-parties present in its privilege log.

³ Defendants have identified an apparent error in the redactions as applied to JCCP_MDL_PRIVLOG005830, which should have contained redactions as to the entirety of Mr. Haas's May 14, 2021 email. Defendants intend to modify its redactions, subject to the Special Master's determination that the email is privileged.

1 potential for future litigation regarding safety-related incidents. *Id.*⁴ Plaintiffs’ challenge this document
 2 based on their observation that there is no attorney on the email thread, but fail to appreciate the fact
 3 that Mr. Haas was working at the direction of counsel. Plaintiffs’ challenge should be rejected.

4 Similarly, Plaintiffs’ challenge another thread beginning with an email from Mr. Haas. *See*
 5 JCCP_MDL_PRIVLOG040250. Mr. Haas sent the first email on this thread on July 9, 2021, and
 6 sought information on behalf of “Insurance Litigation.” Ms. Handley previously explained that Mr.
 7 Haas did so on behalf of Uber’s in-house attorneys and to facilitate the in-house attorneys’ provision
 8 of legal advice regarding potential litigation. *See* Jan. 15, 2025 Handley Decl. (Dkt. 2091-07) ¶ 3.
 9 Indeed, in a January 29, 2025 Order, Magistrate Judge Cisneros considered and rejected Plaintiffs’
 10 privilege challenge to substantially the same email thread, identified as
 11 JCCP_MDL_PRIVLOG040249. The same conclusion is warranted here.

12 The declarations submitted to date illustrate how Uber’s in-house legal team members provide
 13 legal advice to Uber’s leadership and employees on a host of issues, including safety issues,
 14 procedures, and policy. As they have explained previously, their work sometimes involves directing
 15 non-attorney employees to create documentation and assessments necessary for them to provide legal
 16 advice. *See, e.g.*, Dkts. 2462 at 3-4, 2463 at 5. Thus, the factual material, including the list of names
 17 and titles of relevant Uber inside and outside counsel, when reviewed in conjunction with the
 18 challenged documents and the associated metadata fields in the review platform, provide much of the
 19 necessary background to support Uber’s privilege assertions. As explained more fully in prior briefs
 20 incorporated by reference herein (Dkts. 2433, 2461, 2528, 2544, and 2580), the applicable legal
 21 standard, the relevant factual background, including additional factual support contained in the
 22 declaration of Jennifer Handley, all support Uber’s privilege and work product assertions. The
 23 remaining claims submitted for the Special Master’s determination should be upheld.

24
 25 _____
 26 ⁴ The Declaration of Jennifer Handley references a separate email from then-Senior Legal Director,
 27 Safety, Scott Binnings, dated May 14, 2021. This email is not available on the Relativity review
 platform, but Defendants will provide it to the Special Master for *in camera* review upon request.

DATED: March 24, 2025

Respectfully submitted,

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By: /s/ Michael B. Shortnacy

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CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

/s/ Michael B. Shortnacy
MICHAEL B. SHORTNACY